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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2011-488

11 **DAVE LALL**
12 **4889 Highland Drive**
13 **Berrien Springs, MI 49103**
14 **Registered Nurse License No. 635667**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

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16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about November 24, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs, filed Accusation No. 2011-488 against Dave Lall (Respondent) before the
21 Board of Registered Nursing. (Accusation attached as Exhibit A.)

22 2. On or about April 2, 2004, the Board of Registered Nursing (Board) issued
23 Registered Nurse License No. 635667 to Respondent. The Registered Nurse License expired on
24 March 31, 2010, and has not been renewed.

25 3. Business and Professions Code section 118(b) provides, in pertinent part, that the
26 suspension, expiration, or forfeiture by operation of law of a license issued by a board in the
27 department shall not, during any period in which it may be renewed, restored, reissued, or
28 reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding

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1 against the licensee upon any ground provided by law or to enter an order suspending or revoking
2 the license or otherwise taking disciplinary action against the licensee on any such ground.

3 4. On or about November 24, 2010, Respondent was served by Certified Mail copies of
4 the Accusation No. 2011-488, Statement to Respondent, Notice of Defense, Request for
5 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
6 Respondent's address of record which, pursuant to Business and Professions Code section 136
7 and California Code of Regulations, title 16, section 1409.1, is required to be reported and
8 maintained with the Board, which was and is:

9 4889 Highland Drive
10 Berrien Springs, MI 49103.

11 5. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 6. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts
17 of the accusation not expressly admitted. Failure to file a notice of defense shall
18 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
19 may nevertheless grant a hearing.

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation
22 No. 2011-488.

23 8. California Government Code section 11520 states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense or to appear at the
25 hearing, the agency may take action based upon the respondent's express admissions
26 or upon other evidence and affidavits may be used as evidence without any notice to
27 respondent.

28 9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,

1 as well as taking official notice of all the investigatory reports, exhibits and statements contained
2 therein on file at the Board's offices regarding the allegations contained in Accusation
3 No. 2011-488, finds that the charges and allegations in Accusation No. 2011-488, are separately
4 and severally true and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$812.50 as of December 22, 2010.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Dave Lall has subjected his
10 Registered Nurse License No. 635667 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
13 Nurse License based upon the following violations alleged in the Accusation which are supported
14 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.:

15 a. Violation of Business and Professions Code section 2761, subdivision (a)(4), in that
16 on or about July 10, 2010, pursuant to a Consent Order, in the disciplinary action entitled, *In the*
17 *Matter of Dave Lall, R.N., License Number 47-04-236738*, the Michigan Board of Nursing
18 revoked Respondent's nursing license for a period of three (3) years for the following reasons:

19 (1) On or about July 7, 2006, Respondent was convicted by a jury of First Degree Criminal
20 Sexual Conduct, a violation of Michigan State statute MCL 750.520(b), in case number
21 2004405553-FC, in the County of Berrien, Michigan.

22 (2) The circumstances surrounding this criminal conviction are that Respondent delivered a
23 controlled substance to a patient to effect sexual penetration through force or coercion knowing,
24 or having reason to know, that the patient was physically helpless, mentally incapacitated, or
25 mentally incapable, and causing the patient to sustain personal injury.

26 (3) On or about August 7, 2006, Respondent was sentenced to serve a minimum of 56
27 months and a maximum of 112 months in prison, pay restitution of \$2,945.37, and required to
28 register as a sex offender.

ORDER

IT IS SO ORDERED that Registered Nurse License No. 635667, heretofore issued to Respondent Dave Lall, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 17, 2011.

It is so ORDERED February 16, 2011



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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DOJ Matter ID: LA2010601078
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Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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6 *Attorneys for Complainant*

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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2011-488*

12 **DAVE LALL**
13 **4889 Highland Drive**
Berrien Springs, MI 49103

ACCUSATION

14 **Registered Nurse License No. 635667**

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
22 Department of Consumer Affairs.

23 **Registered Nurse License**

24 2. On or about April 2, 2004 the Board issued Registered Nurse License Number
25 635667 to Dave Lall ("Respondent"). The registered nurse license was in full force and effect at
26 all times relevant to the charges brought herein and did expire on March 31, 2010.

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Disciplinary Action by the Michigan State Board of Nursing)**

5 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),
6 on the grounds of unprofessional conduct, in that he was disciplined by the Michigan State Board
7 of Nursing ("Michigan Board"), as follows:

8 9. On or about July 10, 2008, pursuant to a Consent Order, in the disciplinary action
9 entitled *In the Matter of Dave Lall, R.N. License Number 47-04-236738*, the Michigan Board
10 REVOKED Respondent's nursing license for a period of three (3) years.

11 10. The Michigan Board based its Order on the following facts:

12 a. On or about July 7, 2006, Respondent was convicted by a jury of First Degree
13 Criminal Sexual Conduct, a violation of Michigan State statute MCL 750.520 (b), in case
14 number 2004405553-FC, in the County of Berrien, Michigan.

15 b. The circumstances of this criminal conviction are that Respondent delivered a
16 controlled substance to a patient to effect sexual penetration through force or coercion
17 knowing, or having reason to know, that the patient was physically helpless, mentally
18 incapacitated, or mentally incapable, and causing the patient to sustain personal injury.

19 c. On or about August 7, 2006, Respondent was sentenced to serve a minimum of 56
20 months and a maximum of 112 months in prison, pay restitution of \$2,945.37, and
21 required to register as a sex offender.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct)**

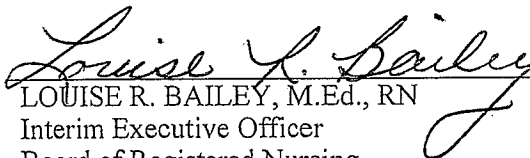
24 11. Respondent is subject to discipline under Code section 2761, subdivision (a), on the
25 grounds of unprofessional conduct, Respondent committed acts constituting unprofessional
26 conduct, as more particularly set forth in paragraphs 8 through 10, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 635667, issued to Dave Lall;
2. Ordering Dave Lall, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: November 24, 2010


LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2010601078